

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

FTX TRADING LTD., *et al.*,¹

Debtors.

Chapter 11

Case No. 22-11068 (JTD)

(Jointly Administered)

Re: Docket No. 1192

**DECLARATION OF METTA MACMILLAN-HUGHES KC IN SUPPORT OF THE
MOTION OF THE JOINT PROVISIONAL LIQUIDATORS FOR A DETERMINATION
THAT THE U.S. DEBTORS' AUTOMATIC STAY DOES NOT APPLY TO,
OR IN THE ALTERNATIVE FOR RELIEF FROM STAY FOR FILING OF
THE APPLICATION IN THE SUPREME COURT OF THE COMMONWEALTH OF
THE BAHAMAS SEEKING RESOLUTION OF NON-U.S. LAW AND OTHER ISSUES**

I, Metta MacMillan-Hughes KC, declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am a King's Counsel, Attorney at Law and a partner of Lennox Paton. Lennox Paton is a leading offshore, full service commercial law firm providing services to clients in relation to Bahamian law..

2. I was admitted to practice at the Bar of England and Wales in 1984, to The Bahamas Bar in 1986 and as Queen's Counsel in February, 2022. I enjoy a highly successful commercial, civil and international litigation practice in insolvency, fraud claims and asset tracing, proceeds of crime litigation, insurance, tax and HNW family law proceedings. I have a particular interest in the development of the law and novel questions of law. I am currently licensed to practice law in The Bahamas and am a member in good standing.

3. I respectfully submit this declaration (the "**Declaration**") in support of the *Motion*

¹ The last four digits of FTX Trading Ltd.'s tax identification number are 3288. Due to the large number of debtor entities in these chapter 11 cases, a complete list of the debtors (the "**U.S. Debtors**") and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the U.S. Debtors' proposed claims and noticing agent at <https://cases.ra.kroll.com/FTX>.

of the Joint Provisional Liquidators for a Determination that the U.S. Debtors' Automatic Stay does not Apply to, or in the Alternative for Relief from Stay for Filing of the Application in The Supreme Court of The Commonwealth of The Bahamas Seeking Resolution of Non-U.S. Law and Other Issues (the "**Motion**"),² filed concurrently herewith.

4. The statements made in this Declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by the professionals in these cases, or my opinion based upon my experience, knowledge, and information concerning multi-jurisdictional disputes, Bahamian law, English, and Antiguan law. I declare that the following statements are true to the best of my knowledge, information and belief formed after a reasonable inquiry under the circumstances.

5. I am over the age of 18 and authorized to submit this Declaration on behalf of the JPLs in the above-captioned chapter 11 cases. If called as a witness I would testify truthfully to the matters stated in this Declaration.

A. The Non-U.S. Law Customer Issues

6. The Application sets out several novel questions that are governed by the laws of England, Antigua & Barbuda ("**Antigua**"), and The Bahamas. Greaves Decl. Exhibit A. The governing law of the terms of the 2019 Terms of Service is Antiguan law. Greaves Decl. Exhibit C (2019 Terms of Service) ¶ 27. The governing law of the 2022 Terms of Service is English Law. Greaves Decl. Exhibit D (2022 Terms of Service) ¶ 38.11. In addition, certain relevant regulatory and insolvency issues are governed by Bahamian law, as FTX Digital is a Bahamian International Business Company ("**IBC**") in liquidation. Trust issues are also likely to be

² Capitalized terms used but not defined herein have the meanings ascribed to them in the Motion.

governed by Bahamian, English or Antiguan law, which is also a question that the Bahamas Court will need to and has the capability to adjudicate.

B. The Bahamian Legal System

7. The Bahamas and Antigua are members of the Commonwealth of Nations – a political association of 56 states, the majority of which are former territories of the British Empire. The legal systems of both The Bahamas and Antigua are based on English common law.

8. The final court of appeal for both countries is the Judicial Committee of the Privy Council of the United Kingdom (the “**Privy Council**”), a five-judge revolving panel sitting in London, England made up of Justices of the Supreme Court of the United Kingdom, the latter court being the final court of appeal for appeals from decisions of the courts of the United Kingdom. The decisions of the Privy Council are binding in the courts of the territory from which the appeal is made and are of strong persuasive authority in other territories of the Commonwealth that still allow for appeals to the Privy Council (such as The Bahamas and Antigua) and in the United Kingdom.

9. The Bahamas Court is familiar with the English and Commonwealth common law applicable to the Non-U.S. Law Customer Issues set out in the Application and, where applicable regularly applies such common law in its determinations.

10. The Non-U.S. Law Customer Issues contemplated by the Application involve complex and novel issues of English, Antiguan, or Bahamian law relating to cryptocurrency, some of which I believe no court in the Commonwealth has previously adjudicated on. Accordingly, I anticipate that the determination of these issues are likely to generate appeals

therefrom, which ultimately would, subject to such permission as is required, be heard by the Privy Council.

C. Procedure in the Bahamas Court After Filing the Application

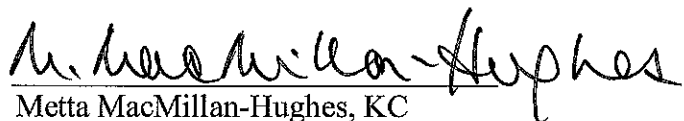
11. When the JPLs file the Application, the Bahamas Court will schedule a Case Management Hearing the purpose of which will be to schedule a hearing date and to give directions. I am informed by the JPLs that all interested parties/classes of parties having an interest in the application (including customers who have already submitted claims in FTX's Digital's Claims Portal) will have the right to appear on the Case Management hearing and on the Application and to be heard individually or in a representative capacity.

12. It is my understanding that the Bahamas Court has facilitated swift hearings in this matter to date and expedited its decisions therein and will continue to do so. While it is difficult to say with certainty how long it will take the Court to rule, the return date for FTX Digital's winding up petition is August 10, 2023, and I would expect the Bahamas Court to render its decision on the various issues raised in the Application before then.

13. The laws of The Bahamas provide for a robust appeal process. After the Bahamas Court rules, all interested parties, including the U.S. Debtors, if they engage in the Application, will have the opportunity to appeal (or seek leave to appeal) from the decision to the Bahamian Court of Appeal and ultimately to the Privy Council.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: March 29, 2023


Metta MacMillan-Hughes, KC